

The Lure of the New Normal

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Maximilian Steinbeis Sa 19 Nov 2016

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Dear Friends of Verfassungsblog,

No-one can remain in a constant state of exception, that would be a contradiction in terms. Any emergency that goes on for too long becomes somewhat normal over time. If things refuse to get less terrifying, all we can do is raise our level of terrification, isn't it? Donald Trump will let a White Supremacists' media darling shape his political strategies – but hey: he deserves a chance, right? Austria is weeks away from falling into the hands of the far-right populists, with other European countries lining up behind it – but please, let's not overreact, maybe we are all just out of touch with what ordinary people think and feel?

One alarm that might have been ringing for just a little too long is the one about Poland, and you have to give it to those guys: they have played the game of normalification masterly. Jean-Claude Juncker, the EU Commission President whom we allegedly have entrusted with a „political mandate“ when we elected the European Parliament, has quietly thrown in the towel in the conflict with the Polish government, with an off-hand remark to a Belgian newspaper, and few people have even taken notice. KIM SCHEPPELE and LAURENT PECH have, though, and they [don't mince words in their analysis](#).

The Polish government is quick to call their internal opponents „traitors“ – an accusation which can sound at times somewhat bewildering to non-Polish ears. The [historical reverberations of the „treason“ topos in Poland](#) are explained by the indefatigable TOMASZ KONCEWICZ and Berkeley historian JOHN CONELLY.

Next Stop: Italy

On the same day as the Austrians elects their new Bundespräsident, on December 4th of 2016 the Italians are called to the ballot to decide whether or not to enact the biggest constitutional reform in the history of the Republic. Prime Minister Matteo Renzi has tied his political future to this project that is supposed to bring Italy after decades of constant crisis (see: normalification) some amount of governmental stability. TORBEN ELLERBROK has taken a [closer look into the reform, its stability goals and the price tag](#) that comes with it (in German).

On a more serene note, the alpine Italian province of South Tyrol with its trilingual Austro-German/Italian/Ladin constituency is a rare model of peaceful cohabitation in an ethnically and linguistically divided country, recently also, and with astonishing success, experimenting with popular constitutionalism. STEPHEN LARIN and MARC RÖGGLA have a [suggestion how to make this successful system even more successful](#) (in German).

Brexit-ridden Britain is also a scene of some rather idyllic constitutional developments, as FILIP BUBENHEIMER has noted in Oxford where he observed the proceedings of the commission in charge of the [revision of Parliamentary constituency boundaries](#) (in German). How the map of electoral districts is drawn is potentially decisive on who wins the election, so „gerrymandering“ accusations are never far when a Parliamentary majority sets out to such a task. The British way of doing this, though, seems to have much to commend it.

These are the days of Trump, though, and there is no escaping it. LEA FISCHER explains to a German audience why [President Trump's nominations of Justices to the Supreme Court](#) are so important and what his chances are to push the Court to the right for decades to come.

Elsewhere

Here are some finds from other pages I would recommend:

- DANIEL SARMIENTO analyzes a very important new ECJ decision on [freedom of movement in absence](#)

of obvious transborder links,

- NUNO PIÇARRA points us to the latest „discreet“ [modifications to the Schengen regime](#) (in French),
- TOM GERALD DALY worries about the rise of [constitutionally ignorant governments](#),
- DAVID POZEN looks into the possibility of the US Electoral College to simply not vote for Trump, following their historical mission to prevent demagogues from taking power, and the reluctance of Democrats to play „constitutional hardball“,
- Some initial thoughts if and how Trump could draw out of multilateral agreement are offered by DAN JOYNER with respect to the [Iran nuclear deal](#) and by BRANDON STORM with respect to [climate change](#).
- ALEX WHITING weighs the possibilities of Trump bringing, against all practical, legal and, well, reasonable reasons, [torture back](#),
- and, to conclude, here is an adequately un-uplifting quote from [this](#) great piece by LUKE McDONAGH:

„Above all, those of us who believe in the rule of law and human rights may need to accept that we may need to fight all over again the battles that we thought had already been won – on women’s rights, on the rights of ethnic and religious minorities, and on the importance of constitutional checks and balances – and that we will have to do so from a position of historic defeat.“

All best, and take care,

Max Steinbeis

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